

## Fair Political Practices Commission

**To:** Chairman Getman; Commissioners Downey, Knox and Swanson

**From:** Luisa Menchaca, General Counsel  
Lawrence T. Woodlock, Senior Commission Counsel

**Subject:** Pending Litigation

**Date:** February 26, 2001

---

### 1. *California ProLife Council PAC v. Karen Getman et al.*

On January 11, 2002, Judge Frank C. Damrell heard cross motions for summary judgment on the three claims by plaintiff that had not been dismissed in earlier proceedings. On January 22, 2002, the court denied the motion for summary judgment filed by plaintiff, and granted the FPPC's motion, after concluding that "the constitutional case or controversy requirement of ripeness cannot be satisfied." The Court entered judgment accordingly on January 22, 2002, and on February 20, 2002 plaintiff filed a Notice of Appeal with the Ninth Circuit Court of Appeal.

### 2. *Institute of Governmental Advocates, et al. v. FPPC et al.*

The Institute of Governmental Advocates filed a Petition for Writ of Mandate with the Third District Court of Appeal, asking the court to stay enforcement of § 85702. Added to the Act by Proposition 34, this provision bars lobbyists from making contributions to candidates and officeholders whom the lobbyists are registered to lobby. The Court of Appeal denied the Petition, and the action was refiled in federal district court, which decided the matter on cross motions for summary judgment on September 17, 2001. Judge Frank C. Damrell granted the Commission's motion and denied Plaintiffs' cross motion. The Court entered judgement for the FPPC, and plaintiffs have since filed a Notice of Appeal to the Ninth Circuit Court of Appeals. By agreement of the Court and parties, the briefing on appeal has been postponed to April and May of this year pending Commission consideration of a lobbyist regulation on March 14.

### 3. *Danny L. Gamel et al. v. FPPC*

On September 11, 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of §§ 84300 – 84302. Plaintiffs have contested this decision by moving for a Writ of Mandate in the Fresno County Superior Court. A hearing was originally set for November 20, 2001, but was re-

calendared for March 21, 2002. All briefs have been submitted.

4. *Daniel Grisette, et al. v. FPPC*

On May 24, 2001, the California Supreme Court handed down a unanimous decision upholding the constitutionality of § 84305 (sender identification in mass mailings) for the second time. The court agreed with the state's position that once the first Supreme Court decision became final, it terminated the litigation as to all causes of action in plaintiffs' complaint. Because plaintiffs thereafter did not commence a separate lawsuit, but instead improperly sought to revive the same litigation in *Grisette II*, the Court of Appeal was without authority to entertain a second appeal in the same action. On November 14, 2001, a final status conference was held in Orange County Superior Court on *Grisette I*, with a view to closing out the matter in the Superior Court. On January 8, 2002 the Orange County Superior Court issued an order that finally resolved all matters at issue before that court in favor of the Commission, and entered judgment accordingly on February 21, 2002.

5. *Levine et al. v. FPPC*

On January 22, 2002, four publishers of "slate mail" – Larry Levine, Tom Kaptain, Scott Hart and the California Republican Assembly – filed suit in Federal District Court alleging that the Act's slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34. Plaintiffs' motion for preliminary injunction will be heard before Judge Lawrence K. Karlton on May 6, 2002.